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October 26, 2020

**VIA ECF**

Honorable Loretta A. Preska  
U.S. District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

**RE:** *United States v. Steven Donziger*, No. 19-CR-561 (LAP); 11-CIV-691 (LAK)

Dear Judge Preska:

I write to clarify the "Zelman" portion of our Motion for Adjournment, that was the subject of your Order dated October 23, 2020.

I was not asking the Court to reconsider its earlier ruling. I was asserting, and continue to assert that said ruling expired on or about September 9, 2020—the penultimate trial date—and that the prosecution must renew its motion based on a fresh showing.

Both sides have extensively briefed the issue of the extraordinary nature of the prosecution using remote testimony in a criminal case where the defendant loses the right of actual confrontation and the fact-finder loses the ability to make a full observation of the demeanor of the witness. I will not repeat all of the prior arguments made, but incorporate them by reference herein.

Should the prosecution (unwisely and unfairly in the defense view), *currently* seek to call Mr. Zelman as a remote witness, it should at least make a showing that his *current* medical condition, his *current* Covid-19 risk given the *current* risks of Covid-19 in the county where he resides, and the manner in which he *currently* is dealing with those risks (careful adherence to public health all the way to insouciant disregard for masks and social distancing). I am not suggesting that the prosecution cannot make this showing—indeed, one would have to be extraordinarily reckless to undertake air travel and then congregate for hours indoors with others outside of one's "pod" during the current circumstances. However, the prosecution has not made such a showing.

Sincerely,

*/s/ Lauren C. Regan (electronic signature)*

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